IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MAXWELL KADEL, *et al.*; *Plaintiffs*, v. DALE FOLWELL, in his official capacity as State Treasurer of North Carolina, *et al.*, *Defendants*.	1:19-cv-00272-LCB-LPA

BRIEF OF *AMICI CURIAE* THE AMERICAN MEDICAL ASSOCIATION AND SEVEN ADDITIONAL HEALTH CARE ORGANIZATIONS IN SUPPORT OF PLAINTIFFS

AUTHORSHIP DISCLOSURE

Pursuant to LR 7.5(d), *amici curiae* certify that this brief was authored entirely by counsel for *amici curiae* and not by counsel for any party, in whole or part; no party or counsel for any party contributed money to fund preparing or submitting this brief; and apart from *amici curiae* and their counsel, no other person contributed money to fund preparing or submitting this brief.

SUMMARY OF ARGUMENT

Transgender individuals have a gender identity that is incongruent with the sex they were assigned at birth. The health care community's understanding of what it means to be transgender has advanced greatly over the past century. It is now understood that being transgender implies no impairment in a person's judgment, stability, or general social or vocational capabilities.

According to a 2016 report, approximately 1.4 million adults identify as transgender in the United States. Andrew R. Flores *et al.*, The Williams Institute, How Many Adults Identify as Transgender in the United States? 2 (June 2016), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Adults-US-Aug-2016.pdf. A similar study indicates that roughly 22,200 of 250,000 (*i.e.*, 0.3% of) adults in North Carolina who identify as lesbian, gay, bisexual, transgender, or queer ("LGBTQ") likely identify as transgender. Christy Mallory & Brad Sears, The Williams Institute, Discrimination, Diversity, and Development: The Legal and

Economic Implications of North Carolina's HB2 4, 7 (May 2016), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Legal-Economic-Implications-HB2-May-2016.pdf. Similarly, two probabilistic studies indicates that between 0.74% and 1.7%, or between 4,650 and 15,600 North Carolina youth identify as transgender. *Id.*; *see also* Jody L. Herman *et al.*, The Williams Institute, Age of Individuals Who Identify As Transgender in The United States 4 (Jan. 2017), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Age-Trans-Individuals-Jan-2017.pdf. Growing acceptance and destigmatization from parents, doctors, and peers is allowing young people with gender dysphoria to become increasingly comfortable disclosing their transgender status and transitioning. Nick Lehr, *What's Behind the Rising Profile of Transgender Kids? 3 Essential Reads*, The Conversation (June 21, 2021, 8:24 AM), https://theconversation.com/whats-behind-the-rising-profile-of-transgender-kids-3-essential-reads-161962 ("[T]hanks to growing acceptance from parents, doctors and peers, young people with gender dysphoria are becoming increasingly comfortable coming out of the closet and transitioning."). However, such "population estimates likely underreport the true number of [transgender] people, given difficulties in collecting comprehensive demographic information about this group." Am. Psych. Ass'n, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People*, 70 Am.

Psychologist 832, 832 (2015), https://www.apa.org/practice/guidelines/transgender.pdf [hereinafter "Am. Psych. Ass'n *Guidelines*"].

Many transgender individuals experience a condition called gender dysphoria, which is characterized by clinically significant distress resulting from the incongruence between one's gender identity and the sex assigned to the individual at birth. The international consensus among health care professionals regarding treatment for gender dysphoria is to assist the patient to live in accordance with the patient's gender identity, thus alleviating the distress or impairment. Treatment may include any or all of the following: counseling, social transition (through, *e.g.*, use of a new name and pronouns, new clothes and grooming in order to allow the person to conform to social expectations and norms associated with his or her identity), hormone therapy and/or gender-confirming surgeries. The treatment for gender dysphoria is highly effective in reducing or eliminating the incongruence and associated distress between a person's gender identity and assigned sex at birth.

Barring coverage of gender-affirming care for state employees or their dependents effectively places such care out of reach for many North Carolina state employees and their dependents. Lack of treatment, in turn, increases the rate of negative mental-health outcomes, substance abuse, and suicide. Beyond exacerbating gender dysphoria and interfering with treatment, discrimination—including discrimination in health coverage—reinforces the stigma associated with

being transgender. Such stigma, in turn, leads to psychological distress and attendant mental-health consequences.

ARGUMENT

I. What It Means To Be Transgender And To Experience Gender Dysphoria.

All people have a "gender identity"—a "deeply felt, inherent sense" of their gender. Am. Psych. Ass'n *Guidelines*, *supra*, at 832, 834, 862; *see also* David A. Levine & Comm. on Adolescence, Am. Acad. of Pediatrics, Technical Report: Office-Based Care for Lesbian, Gay, Bisexual, Transgender, and Questioning Youth, 132 Pediatrics e297, e298 (July 2013), https://www.pediatrics.org/cgi/doi/10.1542/peds2013-1283 [hereinafter "AAP Technical Report"]. Transgender individuals have a gender identity that is not aligned with the sex assigned to them at birth.[1] Transgender people differ from cisgender (*i.e.*, non-transgender) individuals, whose gender identity aligns with the sex they were assigned at birth. Am. Psych. Ass'n *Guidelines*, *supra*, at 861. A transgender man is someone who is assigned the sex of female at birth, but is male and transitions to live in accordance with that male identity. A transgender woman is an individual who is assigned the sex of male at birth but is female and transitions

[1] Although most people have a gender identity that is male or female, some individuals have a gender identity that is "a blend of male or female[,] or an alternative gender." Am. Psych. Ass'n *Guidelines*, *supra*, at 834.

to live in accordance with that female identity. A transgender man is a man. A transgender woman is a woman. Gender identity is distinct from and does not predict sexual orientation. Transgender people, like cisgender people, may identify as heterosexual, gay, lesbian, bisexual, or asexual. Am. Psych. Ass'n *Guidelines*, *supra*, at 835-36; Sandy E. James et al., Nat'l Ctr. for Transgender Equality, The Report of the 2015 U.S. Transgender Survey 246 (Dec. 2016), http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf.

The medical profession's understanding of gender has advanced considerably over the past fifty years. Throughout much of the twentieth century, individuals who were not gender conforming were often viewed as "perverse or deviant." Am. Psych. Ass'n, Report of the APA Task Force on Gender Identity and Gender Variance 26-27 (2008), https://www.apa.org/pi/lgbt/resources/policy/gender-identity-report.pdf [hereinafter "Am. Psych. Ass'n *Task Force Report*"]. Much as our professions now recognize that homosexuality is a normal form of human sexuality—and that stigmatizing gay people causes significant harm—we now recognize that being transgender "implies no impairment in judgment, stability, reliability, or general social or vocational capabilities"—and that stigmatizing transgender people also causes significant harm. Jack Drescher *et al.*, Am. Psychiatric Ass'n, *Position Statement on Discrimination*, *supra*, at 1.

A. Gender Identity

"[G]ender identity" refers to a "person's internal sense" of being male, female, or another gender. Am. Psych. Ass'n, Answers to Your Questions About Transgender People, Gender Identity, and Gender Expression 1 (2014), http://www.apa.org/topics/lgbt/transgender.pdf [hereinafter "Am. Psych. Ass'n *Answers*"]. Every person has a gender identity. Caitlin Ryan, Family Acceptance Project, San Francisco State University, Supportive Families, Healthy Children: Helping Families with Lesbian, Gay, Bisexual, & Transgender Children 17 (2009), https://familyproject.sfsu.edu/sites/default/files/FAP_English%20Booklet_pst.pdf. A person's gender identity cannot be altered voluntarily. Colt Meier & Julie Harris, Am. Psych. Ass'n, Fact Sheet: Gender Diversity and Transgender Identity in Children 1, http://www.apadivisions.org/division-44/resources/advocacy/transgender-children.pdf; *see also* Jason Rafferty, Am. Acad. of Pediatrics, *Gender Identity Development in Children*, HealthyChildren.org (Sept. 18, 2018), https://healthychildren.org/English/ages-stages/gradeschool/Pages/Gender-Identity-and-Gender-Confusion-In-Children.aspx. Further, gender identity cannot necessarily be ascertained immediately after birth. Am. Psych. Ass'n *Guidelines*, *supra*, at 862.

Many children develop stability in their gender identity between ages three and four.[2] *Id*. at 841.

"[G]ender expression refers to the way a person communicates gender identity to others through behavior, clothing, hairstyles, voice or body characteristics." Am. Psych. Ass'n *Answers*, *supra*, at 1. There are many individuals who depart from stereotypical male and female appearances and roles, but who are not transgender. Ethan C. Cicero & Linda M. Wesp, *Supporting the Health and Well-Being of Transgender Students*, 33 J. Sch. Nursing 2 (2017). Indeed, most people who express their gender in a non-stereotypical or non-conforming manner are or become comfortable with the sex they were assigned at birth. The World Professional Association for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People 5 (7th Version, 2011), https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care%20V7%20-%202011%20WPATH.pdf?_t=1605186324 [hereinafter "WPATH *Standards of Care*"]. In contrast, a transgender boy or transgender girl "consistently,

[2] "Although gender identity is usually established in childhood, individuals may become aware that their gender identity is not in full alignment with sex assigned at birth in childhood, adolescence, or adulthood." Am. Psych. Ass'n *Guidelines, supra,* at 836.

persistently, and insistently" identifies as a gender different from the sex they were assigned at birth. *See* Meier & Harris, *supra*, at 1; *see also* Cicero & Wesp, *supra*, at 5-6.

While psychologists, psychiatrists, and neuroscientists are have not pinpointed why some people are transgender, research suggests there may be biological influences, including, for example, exposure of transgender men identified at birth as females to elevated levels of testosterone in the womb. *See* Jason Rafferty, Am. Acad. of Pediatrics, *Gender Diverse & Transgender Children*, HealthyChildren.org (June 7, 2021), https://healthychildren.org/English/ages-stages/gradeschool/Pages/Gender-Non-Conforming-Transgender-Children.aspx; Peggy T. Cohen-Kettenis *et al.*, *The Treatment of Adolescent Transsexuals: Changing Insights*, 5 J. Sexual Med. 1892, 1895 (2008); Arianne B. Dessens *et al.*, *Gender Dysphoria and Gender Change in Chromosomal Females with Congenital Adrenal Hyperplasia*, 34 Arch. Sexual Behav. 389, 395 (2005). Brain scans and neuroanatomical studies of transgender individuals may also support these biological explanations. *See, e.g.*, Francine Russo, *Is There Something Unique About the Transgender Brain?*, Sci. Am. (Jan. 1, 2016), https://www.scientificamerican.com/article/is-there-something-unique-about-the-transgender-brain/.

B. Gender Dysphoria

As noted above, being transgender "implies no impairment in judgment, stability, reliability, or general social or vocational capabilities." Am. Psychiatric Ass'n, *Position Statement on Discrimination*, *supra*, at 1. However, many transgender individuals are diagnosed with gender dysphoria, a condition that is characterized by clinically significant distress and anxiety resulting from the incongruence between an individual's gender identity and birth-assigned sex. Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders* 451-53 (5th ed. 2013) [hereinafter "*DSM-5*"]. As discussed in detail below, the recognized treatment for someone with gender dysphoria is medical support that allows the individual to transition from his or her birth assigned sex to the sex associated with his or her gender identity. WPATH *Standards of Care*, *supra*, at 9-10. These treatments are "effective in alleviating gender dysphoria and are medically necessary for many people." *Id.* at 5.

1. The Diagnostic Criteria And Seriousness Of Gender Dysphoria

The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition codifies the diagnostic criteria for gender dysphoria in adults as follows: "[a] marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least two" out of six criteria, and

"clinically significant distress or impairment in social, occupational, or other important areas of functioning." *DSM-5*, *supra*, at 452-53. The six criteria include (1) "[a] marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics"; (2) "[a] strong desire to be rid of one's primary and/or secondary sex characteristics"; (3) "[a] strong desire for the primary and/or secondary sex characteristics of the other gender"; (4) "[a] strong desire to be of the other gender (or some alternative gender . . .)"; (5) "[a] strong desire to be treated" as a gender different from one's assigned gender; and (6) "[a] strong conviction that one has the typical feelings and reactions" of a different gender. *Id.* at 452.

If untreated, gender dysphoria can cause debilitating distress, depression, impairment of function, self-mutilation to alter one's genitals or secondary sex characteristics, other self-injurious behaviors, and suicide. *See*, *e.g.*, *id.*, at 455, 458; Stephanie A. Brill & Rachel Pepper, The Transgender Child: A Handbook for Families and Professionals 202 (2008) (discussing risk of self-mutilation). Like other minority groups, transgender individuals also are frequently subjected to prejudice and discrimination in multiple areas of their lives (*e.g.*, school, employment, housing, health care), which exacerbates these negative health outcomes and makes access to appropriate medical care all the more important. Michael L. Hendricks & Rylan J. Testa, *A Conceptual Framework for Clinical Work*

with Transgender and Gender Nonconforming Clients: An Adaptation of the Minority Stress Model, 43 Pro. Psych.: Research & Practice 460 (2012); Jessica Xavier *et al.*, Va. Dep't of Health, The Health, Health-Related Needs, and Lifecourse Experiences of Transgender Virginians (Jan. 2007), https://www.vdh.virginia.gov/content/uploads/sites/10/2016/01/THISFINALREPORTVol1.pdf.

2. **The Accepted Treatment Protocols For Gender Dysphoria**

In the last few decades, transgender people suffering from gender dysphoria have gained widespread access to gender-affirming medical and mental health support and treatment. Am. Psych. Ass'n *Guidelines*, *supra*, at 835; WPATH *Standards of Care*, *supra*, at 8-9. For over thirty years, the generally accepted treatment protocols for gender dysphoria[3] have aimed at alleviating the distress associated with the incongruence between gender identity and birth-assigned sex. Am. Med. Ass'n, Comm. on Human Sexuality, Human Sexuality 38 (1972). These protocols are laid out in the *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People (Version 7)* developed by the World Professional Association for Transgender Health ("WPATH"). WPATH

[3] Earlier versions of the *DSM* used different terminology, *e.g.*, "gender identity disorder," to refer to this condition. Am. Psych. Ass'n *Guidelines*, *supra* note 6, at 861.

Standards of Care, *supra*. The major medical and mental health groups in the United States expressly recognize the WPATH Standards of Care as representing the consensus of the medical and mental health community regarding the appropriate treatment for gender dysphoria. Am. Med. Ass'n, Policy H-185.950, Removing Financial Barriers to Care for Transgender Patients (modified 2016), https://policysearch.ama-assn.org/policyfinder/detail/Removing%20Financial%20Barriers%20to%20Care%20for%20Transgender%20Patients%20H-185.950?uri=%2FAMADoc%2FHOD.xml-0-1128.xml; Am. Psych. Ass'n *Task Force Report*, *supra*, at 32; AAP Technical Report, *supra*, at e307-08.

The recommended treatment for gender dysphoria includes assessment, counseling, and, as appropriate, social transition, hormone therapy, and surgical interventions to bring the body into alignment with one's gender identity.[4] Am.

[4] Some clinicians still offer versions of "reparative" or "conversion" therapy based on the idea that being transgender is a mental disorder. However, all leading medical professional organizations that have considered the issue have explicitly rejected such treatments. *See* Am. Med. Ass'n, Policy Number H-160.991, Health Care Needs of Lesbian, Gay, Bisexual, Transgender and Queer Populations (2018), https://policysearch.ama-assn.org/policyfinder/detail/Health%20Care%20Needs%20of%20Lesbian,%20Gay,%20Bisexual,%20Transgender%20and%20Queer%20Populations%20H-160.991?uri=%2FAMADoc%2FHOD.xml-0-805.xml; Am. Sch. Counselor Ass'n, The School Counselor and LGBTQ Youth (2016), https://www.schoolcounselor.org/Standards-Positions/Position-Statements/ASCA-Position-Statements/The-School-Counselor-and-LGBTQ-Youth; Hilary Daniel et al., *Lesbian, Gay, Bisexual, and Transgender Health Disparities: Executive*

Psych. Ass'n *Task Force Report*, *supra* note 10, at 32-39; William Byne et al., Am. Psychiatric Ass'n Workgroup on Treatment of Gender Dysphoria, *Assessment and Treatment of Gender Dysphoria and Gender Variant Patients: A Primer for Psychiatrists*, 175 Am. J. Psychiatry 1046 (2018); AAP Technical Report, *supra*, at e307-09. However, each patient requires an individualized treatment plan that accounts for the patient's specific needs. Am. Psych. Ass'n *Task Force Report*, *supra*, at 32. The task of deciding on an individualized treatment plan should be left to the patient and their medical professionals—not an outside organization such as an insurance provider.

For some adults and adolescents, hormone treatment which helps develop secondary sex characteristics that affirm an individual's gender identity may be medically necessary to treat their gender dysphoria. *See* Am. Med. Ass'n, Policy H-185.950, *supra*; Am. Psych. Ass'n *Guidelines*, *supra*, at 861, 862; Center of Excellence for Transgender Health, University of California, San Francisco, Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People 23 (Madeline B. Deutsch ed., 2d ed. June 17, 2016), https://transcare.ucsf.edu/sites/transcare.ucsf.edu/files/Transgender-PGACG-6-17-

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Summary of a Policy Position Paper from the American College of Physicians, 163 Annals Internal Med. 135, 136 (2015); AAP Technical Report, *supra*, at e307-08; *see* Am. Psychoanalytic Ass'n, *Position Statement on Attempts to Chan*, *supra*.

16.pdf; WPATH *Standards of Care*, *supra*, at 33-34, 54. The Endocrine Society, the oldest and largest global professional membership organization representing the field of endocrinology, considers these treatments to be the standard of care for gender dysphoria. Wylie C. Hembree *et al.*, *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, 102 J. Clinical Endocrinology & Metabolism 3869, 3869-70 (2017) https://academic.oup.com/jcem/article/102/11/3869/4157558; *see also* Alessandra D. Fisher *et al.*, *Cross-Sex Hormone Treatment and Psychobiological Changes in Transsexual Persons: Two-Year Follow-Up Data*, 101 J. Clinical Endocrinology & Metabolism 4260 (2016). A transgender woman undergoing hormone therapy, for example, will have hormone levels within the same range as other women; and just as they do in any other woman, these hormones will affect most of her major body systems. Wylie C. Hembree *et al.*, *supra*, at 3885-88; *see also* Brill & Pepper, *supra*, at 217. Hormone therapy physically changes the patient's genitals and secondary sex characteristics such as breast growth, female-associated fat distribution, softening of the skin, and decreased muscle mass in women, and increased muscle mass, increased body and facial hair, male-pattern baldness (for some), and a deepening of the voice in men. Wylie C. Hembree *et al.*, *supra*, at 3886-89. Hormones have been clinically proven as an effective treatment for gender dysphoria with a low rate of complications. Jack L. Turban et al., *Pubertal Suppression for Transgender Youth*

and Risk of Suicidal Ideation, 145 Pediatrics (2020); *see* Henk Asscheman *et al.*, *A Long-Term Follow-Up Study of Mortality in Transsexuals Receiving Treatment with Cross-Sex Hormones*, 164 Eur. J. Endocrinology 635 (2011), https://eje.bioscientifica.com/view/journals/eje/164/4/635.xml; Paul Van Kesteren *et al.*, *Mortality and Morbidity in Transsexual Subjects Treated with Cross-Sex Hormones*, 47 Clinical Endocrinology 337 (1997).

For children experiencing the onset of puberty, treatment may include medication to prevent further progression of puberty ("pubert[y] blockers"). Wylie C. Hembree *et al.*, *supra*, at 3880-83. This fully reversible treatment allows children with gender dysphoria to delay the development of secondary sex characteristics that do not match their gender identity, giving them additional time to decide whether hormone treatment to feminize or masculinize the body is appropriate. *Id*. at 3880; Am. Psych. Ass'n *Guidelines*, *supra*, at 842; WPATH *Standards of Care*, *supra*, at 18-20.

Surgical interventions may also be an appropriate and medically necessary treatment for some patients. WPATH *Standards of Care*, *supra*, at 54-56. These procedures could include chest reconstruction surgery for transgender men, breast augmentation for transgender women, or genital surgeries, including removal of the testicles, the primary source of testosterone production, in women who are transgender. Wylie C. Hembree *et al.*, *supra*, at 3893-95; *see also* WPATH

Standards of Care, *supra* note 19, at 57-58. Decades of clinical evidence show these surgical procedures are effective in reducing gender dysphoria and improving mental health. Annelou L.C. de Vries *et al.*, *Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment*, 134 Pediatrics 696 (2014); William Byne *et al.*, *Report of the American Psychiatric Association Task Force on Treatment of Gender Identity Disorder*, 41 Arch. Sexual Behav. 759, 778-79 (2012); Mohammad Hassan Murad *et al.*, *Hormonal Therapy and Sex Reassignment: A Systematic Review and Meta-Analysis of Quality of Life and Psychosocial Outcomes*, 72 Clinical Endocrinology 214 (2010); Luk Gijs & Anne Brewaeys, *Surgical Treatment of Gender Dysphoria in Adults and Adolescents: Recent Developments, Effectiveness, and Challenges*, 18 Ann. Rev. Sex Rsch. 178 (2007); Jan Eldh *et al.*, *Long-Term Follow Up After Sex Reassignment Surgery*, 31 Scand. J. Plastic Reconstructive Surgery & Hand Surgery 39 (1997). Empirical studies reflect the importance of the interplay among treatments, finding hormone therapy in conjunction with psychotherapy and, for some, surgery, to be necessary elements of treating severe levels of gender dysphoria. *See* Gianna E. Israel & Donald E. Tarver II, *Transgender Care: Recommended Guidelines, Practical Information & Personal Accounts* 56-73 (1997).

Ultimately—regardless of the particular treatments required for a specific individual and when such treatment begins—the goal is for individuals with gender

dysphoria to experience "identity integration," where "being transgender is no longer the most important signifier of one's identity" and the individual can refocus on his or her relationships, school, job, and other life activities. Walter Bockting & Eli Coleman, *Developmental Stages of the Transgender Coming-Out Process: Toward an Integrated Identity, in Principles of Transgender Medicine and Surgery* 185, 202-03 (Randi Ettner et al., eds., 2d ed. 2013).

II. The Consequences Of Living Without Gender Affirming Care Can Be Irreversibly Detrimental to Patient Health.

The treatments described above, when prescribed by a medical professional, are not elective treatments. For transgender patients struggling with gender dysphoria these treatments are urgent and medically necessary for the health of the patient. *See* WPATH *Standards of Care*, *supra*, at 8 (relying on the multiple sources to conclude that "hormone therapy and surgery have been found to be medically necessary to alleviate gender dysphoria in many people"). The biggest barrier to both safe hormonal therapy and to appropriate treatment for transgender patients is the lack of access to care. Daphna Stroumsa, *The State of Transgender Health Care: Policy, Law, and Medical Frameworks*, 104 Am. J. Pub. Health e31 (March 2014), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3953767/. By delaying care because of lack of access or denial of coverage, transgender individuals face not just the potential worsening of their gender dysphoria, but an onset of other negative

health conditions that endanger the health of the patient. According to a 2015 study by the UCLA School of Law's Williams Institute, failing to receive surgical care where it was needed led to a 16.6% increase in prevalence of suicidal thoughts and 3.4% higher rate of actually attempting suicide in the preceding year. Jody L. Herman *et al.*, The Williams Institute, Suicide Thoughts and Attempts Among Transgender Adults Findings From the 2015 U.S. Transgender Study 16-17 (Sept. 2019). The study also showed that failure to receive hormones similarly increased the prevalence of suicidal thoughts by 15% and increased suicide attempts by 2.4%. *Id.* Overall, where a transgender individual "wanted, and subsequently received[] hormone therapy and/or surgical care[, they] had substantially lower prevalence of . . . suicide [sic] thoughts and attempts than those who wanted hormone therapy and surgical care but had not received them [in the past year]." *Id.*; *see also* Jack L. Turban *et al.*, *supra*, at 2, 8 (finding a significant inverse association between treatment with pubertal suppression during adolescence and lifetime suicidal ideation among transgender adults who sought out this treatment). Further, other recent studies have also shown "lower depressive symptoms in gender dysphoria individuals receiving hormonal treatment. . . . [and] report[ed] higher levels of self-esteem due to the hormonal treatment intervention." Rosalia Costa & Marco Colizzi, *The Effect of Cross-Sex Hormonal Treatment on Gender Dysphoria Individuals' Mental Health: A Systematic Review*, 12 Neuropsychiatric Disease & Treatment

1953, 1962 (2016). Studies also report that hormone therapy leads to lower rates of anxiety, higher quality of life, fewer problems with socialization, and fewer functional impairments. *Id.* at 1964-65.

Although group health plans can negotiate lower rates for care, the costs of these treatments without insurance overage are often unaffordable for the individual. While there may still be issues with affordability even with insurance, including issues of what the insurer deems "medically necessary," policies like the ones at issue, which create blanket bans *ensure* that medical treatment remains outside the reach of many who need it. The policies in place force parties to either pay out of pocket for medically necessary care, or else seek supplementary insurance coverage which itself may cost thousands of dollars per year. For many transgender patients, the result is the same: an inability to access medically necessary medical interventions. *See generally*, ACOG Committee Opinion on transgender and gender-diverse individuals, https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/03/health-care-for-transgender-and-gender-diverse-individuals.

CONCLUSION

For the foregoing reasons, *amici* respectfully urge this Court to grant summary judgment for the Plaintiffs.

Respectfully submitted, this the 30th day of November, 2021.

/s/ Sarah M. Saint
Shana L. Fulton
NC State Bar No. 27836
sfulton@brookspierce.com
Sarah M. Saint
NC State Bar No. 52586
ssaint@brookspierce.com
BROOKS PIERCE McLENDON HUMPHREY & LEONARD, LLP
Suite 2000 Renaissance Plaza
230 North Elm Street (27401)
Post Office Box 26000
Greensboro, NC 27420-6000
Telephone: 336-373-8850
Fax: 336-378-1001

Matthew D. Cipolla
JENNER & BLOCK LLP
919 Third Avenue
New York, NY 10022
(212) 891-1600

Howard S. Suskin
D. Matthew Feldhaus
Connor S.W. Rubin
Scott M. De Nardo
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654
(312) 222-9350

Illyana A. Green
JENNER & BLOCK LLP
1099 New York Avenue NW
Suite 900
Washington, DC 20001
(202) 639-6000

Counsel for Amici Curiae

CERTIFICATE OF WORD COUNT

Pursuant to L.R. 7.3(d)(1) the undersigned counsel hereby certifies that the brief, in support of a motion, which is prepared using a proportionally spaced font, is less than 6,250 words (excluding cover, captions, indexes, tables of authorities, certificates of service, and this certificate of word count, counsel's signature block, and appendixes) as reported by word-processing software used to prepare this brief.

Respectfully submitted, this the 30th day of November, 2021.

/s/ Sarah M. Saint

Sarah M. Saint
N.C. State Bar No. 52586
ssaint@brookspierce.com

BROOKS PIERCE McLENDON
HUMPHREY & LEONARD, LLP
Suite 2000 Renaissance Plaza
230 North Elm Street (27401)
Post Office Box 26000
Greensboro, NC 27420-6000
Telephone: 336-373-8850
Fax: 336-378-1001

Counsel for Amici Curiae

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I hereby certify that, on this date, the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's Electronic Filing System to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

Respectfully submitted, this the 30th day of November, 2021.

/s/ Sarah M. Saint

Sarah M. Saint
N.C. State Bar No. 52586
ssaint@brookspierce.com

BROOKS PIERCE McLENDON
HUMPHREY & LEONARD, LLP
Suite 2000 Renaissance Plaza
230 North Elm Street (27401)
Post Office Box 26000
Greensboro, NC 27420-6000
Telephone: 336-373-8850
Fax: 336-378-1001

Counsel for Amici Curiae